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Chairman: Mr. Wenaweser ..... (Liechtenstein)

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The meeting was called to order at 10.15 a.m.

Agenda item 109: Human rights questions
(A/57/311/Add.1; A/C.3/57/2)

(a) Implementation of human rights instruments
(A/57/3, A/57/40, 44, 56, 173, 268, 291, 308, 399, 400, 445 and 476)

1. **Mr. Ndiaye** (Director, New York Office, Office of the High Commissioner for Human Rights) introduced the reports under the sub-item, beginning with the report of the Secretary-General on effective implementation of international human-rights instruments (A/57/56). That report also highlighted the first inter-committee meeting of the human-rights-treaty bodies. The report of the fourteenth meeting of the chairpersons of the human-rights-treaty bodies (A/57/399) provided a review of developments in their work and a summary of their meeting with States parties, special rapporteurs/representatives, experts and chairpersons of working groups of the Commission on Human Rights. The annual report of the Human Rights Committee (A/57/40) described its seventh-third, seventy-fourth and seventy-fifth sessions and the procedure adopted for follow-up to its concluding observations.

2. Highlights of the annual report of the Committee against Torture (A/57/44) included a revision of its rules of procedure to provide for a mechanism to deal with non-reporting States and States that had submitted reports but had failed to send representatives to present them. It had also created a procedure for follow-up to concluding observations and had amended its rules of procedure for the examination of individual complaints. The report of the Secretary-General on the operations of the Voluntary Trust Fund for Victims of Torture (A/57/268) provided comprehensive information on its activities, as well as lessons learned and best practices, along with a number of recommendations. The Secretary-General had also submitted a report containing information on the status of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery (A/57/308) and the recommendations of its Board of Trustees.

3. The report on the status of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (A/57/291) highlighted the fact that the Convention had 19 ratifications and needed only one more for its entry into force. In the report on the status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (A/57/400) it had been noted that 130 States had ratified that treaty. Most had accepted the competence of the Committee against Torture to receive and consider communications from another State party on the compliance of States parties with their obligations under the Convention. The Third Committee would also have before it the question of a draft optional protocol to the Convention which was intended to establish a preventive system of regular visits to places of detention (Commission on Human Rights resolution 2002/33, annex). The draft had been recommended for adoption by the Economic and Social Council.

4. **Mr. Moesby** (Denmark), speaking on behalf of the European Union, the associated countries Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia and Turkey, and, in addition, Iceland and Norway, said that human-rights violations must first and foremost be addressed at the national level, where their impact was felt directly. Recent terrorist attacks were a reminder that security could never be taken for granted. The European Union reaffirmed its unequivocal condemnation of terrorism, but considered that efforts to combat terrorist acts should respect international human-rights instruments.

5. The promotion and protection of human rights were the primary responsibility of Governments, but States also had the responsibility to monitor the human-rights situation of all peoples and to assist other States in ensuring respect for human rights. Expressions of concern were called for in international forums when there was reason to believe that human rights were not being protected, but it was in the interests of all parties to see such expressions as a means to assist the victims and an invitation to mutual cooperation, rather than hostile acts.

6. It was regrettable that the United Nations human-rights conventions had not yet achieved universality, and that, while torture was universally condemned, the Convention against Torture was the human-rights convention with the fewest States parties. The European Union urged all States which had not yet done so to ratify the six major human-rights conventions and their optional protocols. Recognition of the competence of the various treaty bodies to

monitor compliance with the treaties through the reporting system and through consideration of individual complaints was also crucial. States must extend full cooperation to the special rapporteurs, working groups and other mechanisms established by the Commission on Human Rights to monitor developments with regard to human-rights situations.

7. The international community must be open to new initiatives to enhance respect for human rights; accordingly, the European Union welcomed the initiative to draft an instrument for the protection of persons from enforced disappearance. It also welcomed the adoption of General Assembly resolution 56/168, which had established an Ad Hoc Committee to consider proposals for a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities. It was also prepared to take an active part in the open-ended working group to be established under Commission on Human Rights resolution 2002/24 concerning the elaboration of an optional protocol to the International Covenant on Economic, Social and Cultural Rights.

8. Radical steps to eradicate torture were long overdue, and one such step would be the adoption of the draft optional protocol to the Convention against Torture. The protocol would be an effective tool in preventing torture worldwide, and the European Union urged all States parties to the Convention to become parties to that important instrument as well.

9. **Mr. Stagno** (Costa Rica) said that his delegation wished to underscore the appeal by the Secretary-General in his report on the status of the Convention against Torture for the full implementation of the Vienna Declaration and Programme of Action as it related to freedom from torture. The twentieth anniversary of the entry into force of the Convention, observed on 26 June 2002, had been an opportunity to recall the importance of that instrument in the protection of human rights. It contained not only an absolute prohibition of torture but a series of safeguards to guarantee respect for the dignity of detainees.

10. However, torture still had not been eradicated, and the majority of prisons, even in developed countries, suffered from massive overcrowding and inadequate infrastructure. Abuse by security officials as well as violence among prisoners themselves were chronic problems. In his report (A/57/173), the Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment drew attention to the multitude of laws adopted in many countries to combat terrorism and protect national security as a legitimate response to terrorism. Fears had nevertheless been expressed that some of those measures might not fully respect basic human rights. That situation demanded renewed efforts to implement the Convention against Torture.

11. To that end, his delegation would submit a draft resolution urging adoption of the draft optional protocol to the Convention against Torture. That protocol belonged to a new generation of human-rights instruments which sought cooperation with States rather than confrontation. Its purpose was to assist States in meeting their obligations under the Convention, stressing its protection as well as prevention mechanisms. The text of the draft optional protocol was the result of a lengthy process and had been adopted by the Commission on Human Rights and the Economic and Social Council. A growing majority of Member States supported the initiative, and he was confident that the Committee would also adopt it.

12. **Mr. Staehelin** (Switzerland) said that current international instruments and mechanisms against torture were reactive and punitive, but the draft optional protocol to the Convention would finally give the international community a means of prevention. As one of its authors, his delegation supported the draft as the best possible compromise after years of difficult negotiations.

13. The draft optional protocol combined international with national preventive mechanisms, while ensuring that they were mutually reinforcing. The mechanism was predictable, transparent and based on cooperation rather than political criteria. The national component of the draft optional protocol took into account the different internal structures of countries, especially federal States like Switzerland.

14. While some countries still hesitated to adopt the draft optional protocol for financial reasons, prevention was less costly in the long run than court proceedings, penalties, reparations or rehabilitation. The operating costs of the Subcommittee should be covered by the United Nations regular budget. In principle, the operating costs for the human-rights-treaty bodies should be charged to the regular budget in order to enable all States, even the poorest, to become parties to

those instruments regardless of their resources. The optional protocol also provided for the establishment of a voluntary fund to assist States which did not have the means to prevent torture and to finance the implementation of the Subcommittee's recommendations.

15. His Government would do everything in its power to facilitate ratification of the optional protocol, and invited other States to join in taking another step towards the abolition of torture and other attacks on human dignity.

16. **Mr. La** Yifan (China) said that China attached great importance to the role played by international human-rights instruments in the promotion and protection of human rights and had always earnestly implemented the international instruments to which it was a party. China had recently ratified the International Covenant on Economic, Social and Cultural Rights, ILO Convention No. 182 on the Worst Forms of Child Labour, and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and was preparing to discharge its reporting obligations under those instruments.

17. Although the reporting and review mechanisms provided for in the various human-rights instruments had contributed to their implementation, it was necessary to improve coordination among treaty bodies and with States parties, and to reduce the reporting burden of developing countries. In that connection, his delegation hoped that the recommendations of the Secretary-General contained in his report on the strengthening of the United Nations (A/57/387) would be carefully considered by the Office of the High Commissioner for Human Rights and the treaty bodies concerned.

18. He stressed that, since the ultimate responsibility for implementing international human-rights instruments lay with individual States, the principle of consensus should be applied to the drafting of new instruments in order to ensure their widest possible acceptance.

19. **Ms. Saiga** (Japan) said that the activities of the bodies established under the six international human-rights treaties were at the heart of the international community's efforts to promote and protect human rights. Japan, as a party to all those treaties, was firmly committed to contributing to those activities, but took the view that their work must be streamlined and duplication avoided. In that connection, she took note with interest of the Secretary-General's proposals in his report on the strengthening of the United Nations (A/57/387).

20. Turning to the question of torture, she stressed that that practice must not be tolerated anywhere in the world and that the international community should act in a concerted manner to bring it to an end. Her delegation believed that the draft optional protocol to the Convention against Torture, designed to establish a system of regular visits to places of detention, would contribute to the prevention of torture but had serious concerns about several aspects of it.

21. First, she expressed deep regret that the Chair's draft of the optional protocol had been pushed forward for adoption without sufficient negotiation in the Commission on Human Rights and the Economic and Social Council, and before States had been given a chance to engage in paragraph-by-paragraph consideration of the text. She also pointed out that the Third Committee had not yet held informal consultations on the relevant draft resolution. Given that the draft optional protocol was designed to contribute to preventing torture, it was vital to engage in democratic and transparent discussions in order to gain the support of as many States as possible.

22. Secondly, her delegation was concerned about the budgetary implications of the draft optional protocol. Draft article 25 provided that the expenditure incurred by the Subcommittee on Prevention in the implementation of the protocol would be borne by the United Nations, which did not seem fair, since not all Member States would be parties to the Convention. To date, no optional protocol to a human-rights instrument had ever authorized funding from the regular budget.

23. Furthermore, the Committee had not yet received any budget estimates in that regard, and approving the protocol would therefore amount to issuing a blank cheque. Although it could be argued that, since ratifying or acceding to the draft optional protocol would be optional, countries with concerns should not stand in the way of its adoption, the Japanese Government felt that those countries should be given further opportunities to revise the text and reach a consensus.

24. Although her delegation supported the idea of establishing an international mechanism to make regular visits to States parties, she felt that further

consideration should be given to the question of balancing the need to grant the Subcommittee unrestricted access to all places of detention and to all relevant information and the obligation to protect persons deprived of their liberty and their right to privacy. The relationship between the international and national mechanisms should also be strengthened.

25. In conclusion, she appealed to the Committee to refrain from pushing forward with the adoption of the draft optional protocol, since further discussion was needed if a truly effective tool to prevent torture was to be created.

26. **Ms. Boiko** (Ukraine) said that universal participation in and full implementation of the international human rights instruments remained the most effective means of ensuring the protection and promotion of fundamental rights and freedoms. In recent years, Ukraine had made substantial progress in that area by, inter alia, complying with its reporting obligations before the various treaty bodies, acceding to the Convention relating to the Status of Refugees and the Protocol thereto, and abolishing the death penalty. The new Criminal Code of Ukraine qualified torture as a crime and imposed penalties on its perpetrators and, in addition, it was currently illegal to return refugees to countries where they might face the threat of torture or ill treatment. Her delegation therefore welcomed the draft optional protocol and hoped that it would be adopted by the General Assembly, but also believed that every effort should be made to obtain a broader consensus.

27. It was encouraging to note that each Member State was now a party to one or more of the six core human-rights treaties and that, reflecting the success of the Millennium Summit strategy of pressing for universal ratification, between January 2001 and 8 July 2002 24 new instruments of ratification of or accession to those treaties had been submitted.

28. However, the monitoring system for the implementation of those human-rights instruments was far from satisfactory, since treaty bodies were overburdened and States parties often failed to meet their reporting obligations. Serious consideration should therefore be given to the Secretary-General's proposal concerning the standardization of reporting requirements and the submission of a single report summarizing a State's adherence to the full range of international human-rights treaties to which it was a party. In that connection, her delegation welcomed the continuing efforts of the treaty bodies to streamline their work and the results of the fourteenth meeting of the chairpersons of the human-rights-treaty bodies. A reformed monitoring system should better serve the needs of the individuals whose rights were enshrined in the treaties and take full account of the interests of States parties.

29. Her delegation was convinced that the protection of human rights was essential to peace, stability and accord in any society. Putting an end to human-rights violations was attainable if the international community was courageous enough to meet the challenge.

30. **Ms. Šimonovič** (Croatia) said that the adoption by the United Nations of a set of human-rights instruments ranked among its most remarkable achievements in the field of human rights. Croatia favoured the universal ratification and implementation of all six core human-rights treaties, which gave legal status to a number of rights and condemned their violations.

31. Croatia had been a Member of the United Nations for 10 years, and had already completed the first cycle of presentation of its initial reports to all six core treaty bodies. The recommendations of those bodies had provided the Croatian Government with valuable guidance.

32. Although the reporting system remained the cornerstone of United Nations action in that area, it could be improved. The treaty bodies should take a more coordinated approach and streamline their reporting procedures. In that connection, she welcomed the new measures they had introduced.

33. With regard to the Convention against Torture, she urged Member States to confirm their commitment to eradicating torture by ratifying that Convention and incorporating its provisions in their domestic legislation. Despite the clear prohibition of torture laid down in international law, it still occurred all over the world and it was therefore necessary to establish a credible international mechanism to facilitate preventive action. The draft optional protocol represented a compromise solution and her delegation appealed to all States to support its adoption.

34. Recent additions to the body of international human-rights instruments had served to strengthen the

legal framework in the area of human rights, but much still remained to be done to ensure that those standards were fully implemented.

35. **Mr. Shobokshi** (Saudi Arabia) said that human rights had become an international issue and occupied a central role at the United Nations. However, there was a perversion of and a mistake in the common understanding of human rights which placed human beings and not God at the centre of the universe, and which considered the satisfaction of man's desires as the final goal of life. Such understanding had marginalized religion, unleashing a principle of unfettered freedom, with no checks on one's needs and desires, even on one's instincts and impulses.

36. Human rights should not, however, be politicized. There should not be one prevailing conception of human rights that would oppose religious beliefs and specific cultures. Human rights had been interpreted differently throughout history. They were often used as a means of exerting pressure to achieve political and economic goals.

37. For more than half a century, the human rights of the Palestinian people had been violated under the State terrorism of Israel, which expropriated their lands, prevented them from building or repairing their homes, prohibited them from using water, impeded their means to earn a living, demolished their houses, destroyed their economic infrastructure, imposed curfews, arrested them without formal charges, attacked them by tanks and helicopters, and applied against them collective punishment. The international community had been witnessing those exactions without its conscience being stirred to action, as if Israel was not accountable and was immune to condemnation. Stability in any part of the world would require compliance with justice and respect for liberties. Keeping silent in the face of the Israeli war machine undermined international legitimacy. Israeli violence could not nullify an essential truth, which was the right of the Palestinian people to establish their own independent State, with East Jerusalem as its capital.

38. The Kingdom of Saudi Arabia had been the cradle of the Islamic message, which called on justice and equality of rights and obligations for all human beings, united in the worship of God. Human rights in Saudi Arabia were those that Islam had introduced, which considered human beings as the most noble creatures of God, who sent the Prophets to guide them and warn them against evil deeds. Human rights in Saudi Arabia, like all rights, were checked by legal constraints that prohibited doing what God forbade. The Saudi regime, based on the Islamic Shariah, had guaranteed all human rights, including conception in the womb, the right to life, and the right to education, work, a decent living and health care. Human rights in Saudi Arabia derived their legitimacy from the Holy Koran and from religious instructions that were superior to the inclinations and whims of rulers and ruled.

39. Saudi Arabia had acceded to a number of international human-rights conventions, the last one being the Convention on the Elimination of All Forms of Discrimination against Women. It was currently examining the other international human-rights instruments with a view to acceding to them. Domestically, Saudi Arabia had disseminated the concepts of human rights in its educational programmes and the media. It had issued laws and regulations that protected the human rights of nationals and other residents which held that all individuals and all nations should enjoy the same rights and comply with their obligations.

40. No single civilization had a monopoly of human rights. It would be futile to impose alien values, on a human being or society, and it was unacceptable that one civilization should nominate itself the arbiter of other civilizations and judge them according to its own criteria. Cultural, social and religious diversities should be taken into account in order to apply human rights successfully.

The meeting rose at 11.30 a.m.